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RULES RELATING TO OFFICIAL COURT REPORTERS

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RULES RELATING TO OFFICIAL COURT REPORTERS

1. APPOINTMENT OF REPORTER:

A. Each judge of the district and separate juvenile court shall appoint or, with approval from the State Court Administrator, shall contract with one official court reporter to make, preserve, transcribe, and deliver the record of the trial and other proceedings over which said judge presides. Such an official court reporter is an at-will employee of the Nebraska Supreme Court, subject to the Court's general administrative authority pursuant to art. V, § 1 of the Nebraska Constitution, and serves at the pleasure of the appointing judge and the Nebraska Supreme Court, unless otherwise discharged from employment as provided in Rule 4D.

B. If the office of the appointing judge is vacated, and the Judicial Resources Commission declares that a judicial vacancy exists in the affected district, the official reporter shall continue in office until either reappointment or the appointment of a successor official reporter.

C. If the office of the appointing judge is vacated and the Judicial Resources Commission determines that a judicial vacancy does not exist in the affected district, the official reporter in such district shall vacate his or her position 90 days from the date of such determination by the commission.

Rule 1A through C amended February 28, 1996; Rule 1A amended June 5, 2002.

2. OATH OF OFFICE: An official reporter shall take the oath of office provided for judicial officers.

3. DUTIES OF REPORTER: The official reporter is charged with a duty to comply with any Supreme Court rule relating to official court reporters and with the duty of making, preserving, transcribing, and delivering a verbatim record of all proceedings in the court to which he or she is appointed in accordance with Neb. Ct. R. of Prac. 5. Failure to comply with such rules may result in disciplinary action, including termination, by either the appointing judge or the Nebraska Supreme Court. In addition, the official reporter shall perform any other duties assigned by the appointing judge and shall:

A. On order of the trial judge, make and file in the clerk's office a typewritten transcription of any trial or proceedings, or any part thereof, without expense to any party to the suit; such transcription shall be a part of the records in the case. The court reporter shall receive from the appropriate governmental unit the compensation specified below in Rule 18 for any such transcription ordered by a judge.

B. Upon request of counsel or any party to a suit, furnish to such counsel or party, as expeditiously as possible, a typewritten transcription of any trial or proceedings, or any portion thereof. The reporter shall receive the compensation specified below in Rule 18 for any such transcription, except that when expedited, daily, or real-time delivery is requested, the reporter and the requesting party may mutually agree to an amount to be paid for delivery of such transcription. Counsel or any party shall make satisfactory arrangements with the reporter for payment. All work involved with the preparation of such transcription shall be considered freelance activity subject to Rule 11.

C. Upon request of any person not a party to a suit, if so approved by the trial judge, furnish to such person, as expeditiously as possible, a typewritten transcription of any trial or proceedings, or any portion thereof. All work involved with the preparation of such transcription shall be considered freelance activity subject to Rule 11. The compensation and payment therefor shall be as prescribed in Rule 3B.

D. All verbatim transcriptions shall be certified by the reporter to be true and correct.

Rule 3A, B, and C amended June 19, 1996; Rule 3 amended June 5, 2002; Rule 3A and B amended June 22, 2005; Rule 3B amended February 15, 2006.

**4. GENERAL QUALIFICATIONS:**

A. An official reporter shall be competent in the making, preserving, transcribing, and delivery of a verbatim record of trial and other proceedings through the use of either pen or machine shorthand or the use of multi-track recorders supplemented by logging procedures.

B. One's professional competence to serve as an official reporter shall be demonstrated by having passed an examination conducted by such entities as the State Court Administrator may from time to time designate, which tests one's reporting skills and knowledge of spelling, grammar, and the reporting craft. The skills portion of the examination shall require the reporter, in the case of one using pen or machine shorthand, to report and transcribe, and in the case of one using a multi-track recorder to record and transcribe, each of three items of dictation consisting of (1) literary material, (2) jury instructions, and (3) two-voice testimony. Each dictation segment shall be of five minutes duration. In the case of one using pen or machine shorthand, the literary material must be reported at a rate of not less than 180 words per minute, the jury charge at not less than 200 words per minute, and the two-voice testimony at not less than 225 words per minute. All of the dictated material must be transcribed with 95 percent accuracy in a period of not more than three and one-half hours, during which time a dictionary may be used. In grading this portion of the test, a maximum of 45 errors is permitted on the literary material, a maximum of 50 errors is permitted on the jury charge, and a maximum of 57 errors is permitted on the two-voice testimony. The knowledge portion of the examination shall consist of not less than 100 written multiple-choice questions and must be passed with a score of not less than 70 percent in a period of time as determined by the examiner, but no more than 90 minutes per 100 questions. A dictionary may not be used during this portion of the examination.

C. No applicant for a position as an official reporter may hereafter be initially appointed or reappointed following the taking of office by a judge succeeding the judge making the initial appointment unless the applicant shall first have met the above testing requirements.

D. After employment, an official reporter may be required to undergo reexamination through testing substantially similar to that described in Rule 4B any time upon the request of the appointing judge, the Nebraska Court of Appeals, or the Nebraska Supreme Court. Failure to pass the reexamination shall constitute cause for the immediate discharge of the official reporter from employment.

Rule 4B, amended February 23, 2006.

**5. PLACE OF RESIDENCE OF REPORTER:** The place of residence of the official reporter shall be determined by the appointing judge.

**6. PRINCIPAL OFFICE LOCATION OF JUDGE AND REPORTER:** Each judge, in a district where the judge and official reporter do not reside in the same county, shall designate, if a multicounty district, a courthouse in the judicial district to serve as the principal office location for the judge and a courthouse in the judicial district to serve as the principal office location for the reporter.

**7. ASSIGNMENT OF REPORTER:**

A. With the approval of the official reporter's appointing judge, any other official reporter may be assigned by the State Court Administrator to perform an official reporter's duties on a temporary basis in any court in the state.

B. Any official reporter so assigned on a temporary basis shall receive, in addition to his or her regular salary, reimbursement for all necessary and actual expenses incurred, in conformance with the

travel policies of the Administrative Office of the Courts. Mileage in such instances will be paid to and from the place of residence of the assigned reporter.

8. **REPORTER ACTING WHEN ANOTHER JUDGE PRESIDES:** Unless otherwise directed by the appointing judge, the official reporter shall serve as such in all matters heard by another judge when acting in place of the appointing judge, and shall perform in relation to such matters all the duties required by law or these rules.

9. **REIMBURSEMENT FOR TRAVEL EXPENSES:** Each official reporter shall be reimbursed for actual and necessary expenses incurred in the performance of his or her official duties. Reimbursement shall be in accordance with the travel policies of the Administrative Office of the Courts.

10. **CUSTODY OF TRIAL RECORDS AND DOCUMENTS:**

A. All shorthand notes, tape recordings, log sheets, or any other material used in making the record in court shall remain in the custody of the official reporter until such time as the reporter's employment is terminated, or until he or she is disabled or incapacitated. Upon the occurrence of any of the above, control of all such materials shall then be transferred to the clerk of the district court. All reporter notes created after July 1, 1988, shall be marked on the first page with the reporter's name, date(s) of proceedings, case title(s), docket number(s), and "Criminal" if criminal cases were reported. Notes which contain criminal cases are to be separated and stored in separate filing equipment or storage boxes. Containers for permanent storage shall be marked with the year, type of notes (criminal or civil), and name of reporter. The official reporter may, with the approval of the clerk of the district court, transfer permanent storage containers to the clerk of the district court at any time. Responsibility for the retrieval, research, and refiling of the notes contained in the storage files shall lie with the reporter or his or her successor(s). Custody of any such materials may be assumed at any time by the judge in the event of failure on the part of the reporter to prepare and deliver a transcript of proceedings or to timely prepare and file a bill of exceptions on appeal to the Supreme Court or Court of Appeals.

B. Except as it shall become necessary to include exhibits in bills of exceptions being prepared in connection with appeals to the Supreme Court or Court of Appeals, all exhibits shall be retained by the official reporter until a matter is terminated, at which time responsibility for the safekeeping of such exhibits shall pass to the clerk of the district court, unless otherwise ordered by a district judge pursuant to law. Likewise, the responsibility for the safekeeping of all exhibits shall pass to the clerk of the district court upon a reporter's termination of employment, for whatever reason.

C. Upon the transfer of responsibility for the safekeeping of exhibits from the official reporter to the clerk of the district court, the reporter shall insure that all exhibits in each case are grouped together and shall state thereon the caption of the case, docket and page or case number, the date or dates of the trial or proceedings, and the name of the reporter. The reporter shall prepare in each case, for the signature of the clerk of the district court, a receipt acknowledging responsibility for the safekeeping of such materials. The original of the receipt shall be retained by the clerk.

11. **FREELANCE ACTIVITIES:**

A. Freelance reporting activities shall mean the reporting or transcription by an official reporter of oral statements or proceedings of any nature whatsoever, other than those required by these rules, those specifically requested by the judge who appointed the reporter, or for said judge's substitute, or by the State Court Administrator.

B. Except as provided for by these rules, an official reporter may engage in freelance reporting activities during normal working hours if, and only if, the reporter takes leave without pay and said activities are determined by the judge who appointed the reporter to be in the interest of the public, provided, however:

(1) The taking of leave without pay shall not be required if the freelance activity occurs during a reporter's lunch hour, while the reporter is on vacation leave, or while the reporter is taking compensatory time off.

(2) Freelance reporting activities shall not be performed during any period in which the reporter is granted an extension to complete and file a bill of exceptions except for those activities related to the specific bill of exceptions for which the extension has been granted.

(3)(i) Freelance reporting activities shall not be performed when the presence of the official reporter is required by these rules, by the judge who appointed the reporter, by said judge's substitute, or by a judge to whom the reporter has been assigned by the State Court Administrator, except, however transcription described in Rule 3B and C may be performed during this time if the appointing judge or judge's substitute determines such transcription is in the best interest of the public, and the time spent at such transcription is not in conflict with any other duties of the court reporter.

(ii) If the reporter's full-time presence is not required by the appointing judge or judge's substitute during normal working hours, the reporter may, without taking leave without pay, engage in transcription described in Rule 3B or C only.

C. All other outside employment during normal working hours is prohibited.

D. An official reporter shall neither provide nor cause to be provided any public office space to any of the reporter's employees or associates.

E. An official reporter shall not use any publicly-owned supplies or equipment in connection with any freelance reporting activity. Provided, however, that permission to utilize state-owned equipment for purposes outside the scope of official court reporting duties may be given by the Supreme Court if: (1) the equipment is to be used for purposes of recording proceedings of other public entities; (2) operation of the recording equipment by the reporter will not be during working hours nor in any other way interfere with the reporter's official responsibilities; and (3) payment of \$10 to the State of Nebraska, through the office of the State Court Administrator, is made from any such public entity for each day or any part thereof that the equipment is used.

F. All leave without pay taken for the purpose of engaging in freelance activity shall be recorded on the monthly timesheet. The amount of income and the leave earnings on the following month's paycheck shall be adjusted to reflect any time recorded on the timesheet as leave without pay. Hours spent in transcription preparation under Rule 11B(3) during normal working hours shall be recorded on the monthly timesheet (Appendix 1).

G. An official reporter shall not be eligible for injury leave or workers' compensation benefits for injury sustained while on leave without pay.

H. An official reporter shall not evade the provisions of this rule by employing a substitute court reporter to perform any official duty.

12. EMPLOYMENT OF SUBSTITUTE REPORTER:

A. In the event of illness or disability of an official reporter, and where it would appear to not be practical or feasible to reassign another official reporter on a temporary basis, the judge of the ill or disabled reporter, with the approval of the State Court Administrator, may designate a reporter having passed an examination at least as stringent as that described in Rule 4B to act as a substitute reporter, at state expense.

B. The preparation of any bill of exceptions or transcript by any such substitute reporter shall be subject to the same rules and regulations as those governing permanently employed official reporters.

C. Payment to such temporarily employed substitute reporter shall be on a per diem basis, and payment will be made only for the actual days such substitute reporter was required by the judge to be in attendance upon the court. Per diem payment may not be in excess of that figure which the ill or disabled reporter's gross monthly salary amounts to if computed on a per diem basis.

D. No substitute reporter shall be entitled to sick leave or any other benefits ordinarily available to the reporter for whom he or she is substituting.

E. Actual and necessary expenses, including mileage reimbursement, shall be paid to such substitute reporter under the same terms and conditions as those payments are then being made to the reporter for whom he or she is substituting.

F. Any additional reimbursements to a substitute reporter may only be made with the prior approval of the State Court Administrator.

13. LEAVE: All leave, including holiday leave, vacation leave, sick leave, funeral leave, family leave, military leave, civil leave, injury leave, and workers' compensation disability leave, shall be taken as provided in the authorized leave policies of the Nebraska Supreme Court Personnel Policies and Procedures. Provided, however, that an official reporter shall take vacation at the same time as or at the discretion of the appointing judge. If the official reporter is permitted to take vacation at a time other than when the appointing judge takes vacation and the services of a substitute reporter are required by such judge, it shall be the obligation of the official reporter taking vacation to arrange for the services of a substitute reporter at no cost to the State, unless otherwise determined by the State Court Administrator. The substitute reporter must have passed an examination at least as stringent as that described in Rule 4B. The arrangement may not be implemented unless first approved by the State Court Administrator.

14. OVERTIME: Overtime shall be earned and compensated for as provided in the overtime policies in the Nebraska Supreme Court Personnel Policies and Procedures, except as otherwise provided by the Court Reporter Fair Labor Amendments of 1995, 29 U.S.C. § 270(o)(6) and these rules. Except in cases of emergency, no overtime shall be approved during a workweek in which the reporter has engaged in freelance transcription under Rule 11B(3).

Any hours spent performing "freelance" transcription of court proceedings shall not be counted as "hours worked" for purposes of the overtime provisions of the Fair Labor Standards Act if:

(1) the reporter is being paid not less than maximum per page rate established by Rule 18, or the per page rate freely negotiated between the reporter and the party requesting the transcript (other than the judge who presided over the proceedings), and

(2) the hours spent performing such duties are outside the hours such reporter performs other work (including hours for which the court requires the reporter's attendance) pursuant to the employment relationship with the court; e.g., leave without pay, lunch hours, vacation leave, compensatory time off, or

time where the reporter's attendance at any designated workplace is not required by the appointing judge, the judge's substitute, or the State Court Administrator.

Rule 14 adopted June 19, 1996; rule 14(1) amended June 22, 2005.

**15. NEBRASKA OFFICIAL COURT REPORTERS ASSOCIATION:** There shall be an organization called the Nebraska Official Court Reporters Association, which shall consist of all official reporters. This organization shall have as its purpose the improvement of court reporting in this state, by providing a forum for the exchange of ideas and to educate all reporters to more adequately and expeditiously handle the reporting needs of this state. The association shall adopt bylaws consistent with these rules, providing for the election of a president and such other officers as the association determines appropriate. The association shall have at least one meeting per year unless such annual meeting is canceled or suspended by order or direction of the Nebraska Supreme Court.

If the judge who appointed the reporter requires the presence of an official reporter during the time of the educational seminar, a substitute may be designated to replace the official reporter while attending the seminar. This shall be at state expense.

Rule 14 renumbered to 15 June 19, 1996; Rule 15 amended September 10, 1998; Rule 15 amended March 19, 2003; Rule 15 amended February 1, 2006.

**16. PREPARATION AND DELIVERY OF BILL OF EXCEPTIONS OR TRANSCRIPTION BY ANOTHER REPORTER:**

A. In the event a bill of exceptions or transcription of a trial or proceeding is required after the official reporter who reported the same has left his or her position, but who retains residency in this state, such bill of exceptions or transcription shall be prepared by that person, under the same requirements, time limitations, and rate of compensation as that in existence for official reporters.

B. In the event a bill of exceptions or transcription of some trial or proceeding is required after the official reporter who reported the same has left his or her position, and who no longer is a resident of this state, such bill of exceptions or transcription shall be prepared by the successor reporter, provided the same method of recording court proceedings is employed by such successor reporter.

C. There shall be established within the Nebraska Official Court Reporters Association a committee of reporters whose function will be, in the event the provisions of Rule 16A and B cannot be implemented, to prepare any bill of exceptions or transcription required.

D. In the event a bill of exceptions or transcription of some trial or proceeding is required, but the official reporter who reported the same is temporarily ill or disabled to the extent that delivery of the same would be unduly delayed, then the provisions of Rule 16C shall become effective.

E. In cases where a bill of exceptions or transcription is prepared by an official reporter who did not make the actual record in court, the certificate shall set forth that the bill of exceptions or transcription was prepared from the record made by the unavailable reporter, and that the bill of exceptions or transcription is full, true, and correct to the best of the preparing reporter's ability to compile such bill of exceptions or transcription.

Rule 15 renumbered to 16 June 19, 1996.



17. **OTHER RELATED POLICIES:** The workplace harassment policy, the drug-free workplace policy, and travel policies apply to all official court reporters. Copies of these policies are available through the State Court Administrator's Office and are also printed in the Nebraska Supreme Court Personnel Policies & Procedures manual.

Rule 18 adopted February 10, 1999; Rule 17 deleted and Rule 18 renumbered to 17 November 22, 2000.

18. **PER-PAGE COMPENSATION:** Effective June 8, 2005, the per-page fee to which a court reporter is entitled, as prescribed by the Supreme Court pursuant to Neb. Rev. Stat. § 25-1140.09, shall be \$3.25 per page for an original copy of a bill of exceptions and 50 cents per page for each additional copy, with numbering to begin with the cover page.

Rule 18 adopted June 22, 2005.

Rules Relating to Official Court Reporters amended Feb. 1, 1995.

## Appendix 1

For the month of \_\_\_\_\_, \_\_\_\_\_

[illegible]

1. Write your designated work day at the top of the sheet and place dates in upper lefthand corner of each square.
2. This timesheet should reflect both hours worked and deviations (as designated below)\* from the regular work day. Explain these deviations by recording the number of hours and the proper code in the appropriate square. (V/3hrs., S/8hrs., TPANR/4hrs., TPO1/2hr., etc.)
3. Complete monthly totals including, when applicable, the totals of overtime earned and comp time taken for the month. (Use the back of this sheet for additional information.)
4. Please sign (*both the judge and reporter*) and submit to the State Court Administrator's office by the **5th** of each month.

\*

(See leave code explanations on back)

[illegible]

**For the month of \_\_\_\_\_ I can be reached at ( ) \_\_\_\_\_**


Judge Signature \_\_\_\_\_

**Leave Codes:**

See the Nebraska Supreme Court Personnel Policies and Procedures handbook for the following leave explanations:

V=Vacation  
F=Funeral

S=Sick  
M=Military

H=Holiday  
C=Civil

**Other Codes:**

OTE=Overtime Earned      CTT=Compensatory Time Taken      LWP=Leave Without Pay  
TPANR=Transcript preparation/attendance not required  
TPON=Transcript preparation/on site  
    (1) Judge request (Rule 3A)  
    (2) Other party request (Rule 3B and C)

**Code Definitions:**

**OVERTIME EARNED (OTE)** - Time worked in excess of the designated work week. Paid leave time (vacation, sick, etc., with the exception of holiday leave), time when the reporter's presence is not required, and leave without pay for freelance work, shall not be considered as hours worked. An employee must work, not just get paid for, 40 hours of required work during the designated work week before any time can be considered as overtime.

**COMPENSATORY TIME TAKEN (CTT)** - Time taken off from work, earned at a time and one-half basis, as a result of overtime (as defined above).

**LEAVE WITHOUT PAY (LWP)** - Time taken off during the designated work day required to engage in freelance activity other than transcription preparation pursuant to Rule 3B and C.

**TRANSCRIPT PREPARATION/ATTENDANCE NOT REQUIRED (TPANR)** - Any time spent during the normal working hours as described in Rule 11B(3)(ii) engaged in the preparation of transcription pursuant to Rule 3B and C.

**TRANSCRIPTION PREPARATION/ON SITE AND ATTENDANCE REQUIRED (TPON)** - Any time spent during the normal working hours as described in Rule 11(b)(3)(i) engaged in the preparation of transcription pursuant to Rule 3A, B, or C.

Note: Include either (1) or (2) below when recording this code:

- (1) Judge request (Rule 3A)
- (2) Other party request (Rule 3B and C).

**Other Information:**

**DESIGNATED WORK WEEK** - 8:00 a.m. on Monday to 8:00 a.m. the following Monday.

**DESIGNATED WORK DAY** - The normal daily work schedule that has been set for the reporter by the judge.

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